

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

**DOUGLAS ARTHUR IVERS,**

Plaintiff,

v.

**UNITED STATES DEPARTMENT  
OF JUSTICE; FEDERAL BUREAU  
OF ALCOHOL, TOBACCO,  
FIREARMS and EXPLOSIVES; and  
FEDERAL BUREAU OF  
INVESTIGATION,**

Defendants.

No. 3:15-cv-02101-PK

OPINION AND ORDER

**MOSMAN, J.,**

On January 5, 2016, Magistrate Judge Papak issued his Findings and Recommendation (F&R) [15], recommending that Plaintiff's Complaint [1] be dismissed *sua sponte*. Judge Papak recommended that any and all claims related to Defendants' alleged implantation and operation of a neurological device in Plaintiff's body should be dismissed with prejudice, while Plaintiff's remaining claims should be dismissed without prejudice, allowing Plaintiff leave to amend his Complaint within thirty days from this Order to assert those claims against the proper defendants. Judge Papak also recommended that Plaintiff's Motion for Injunctive Relief [7] should be denied as moot. No objections to the Findings and Recommendation were filed.

## DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a *de novo* determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, *de novo* or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Papak's recommendation and I ADOPT the F&R [15] as my own opinion. Plaintiff's Complaint [1] is DISMISSED and all claims related to Defendants' alleged implantation and operation of a neurological device in Plaintiff's body are dismissed with prejudice. Plaintiff's remaining claims are dismissed without prejudice, and Plaintiff is allowed leave to amend his Complaint within thirty days from this Order to assert those claims against the proper defendants. Plaintiff's Motion for Injunctive Relief [7] is DENIED as moot.

IT IS SO ORDERED.

DATED this 2nd day of February, 2016.

/s/ Michael W. Mosman  


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 MICHAEL W. MOSMAN  
 United States District Chief Judge